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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/547,664	04/12/2000	Geoffrey B. Rhoads	60156	6242

23735	7590	07/27/2005

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

EXAMINER
VU, VIET DUY

ART UNIT	PAPER NUMBER
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Technology Center 2100

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/547,664
Filing Date: April 12, 2000
Appellant(s): RHOADS ET AL.

William Y. Conwell
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 18, 2005.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2)   Related Appeals and Interferences

The brief does not contain a statement identifying the related appeals and

interferences which will directly affect or be directly affected by or have a bearing on the

decision in the pending appeal is contained in the brief. Therefore, it is presumed that

there are none. The Board, however, may exercise its discretion to require an explicit

statement as to the existence of any related appeals and interferences.

(3)   Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4)   Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection

contained in the brief is correct.

(5)   Summary of Invention

The summary of invention contained in the brief is correct.

(6)   Issues

The appellant's statement of the issues in the brief is substantially correct. The

changes are as follows:

Claims 13-14 stand rejected as anticipated by <u>Moskowitz</u>.

Claims 7-12 stand rejected as obvious over <u>Doyle</u> and <u>Moskowitz</u>.

Claims 15-16 stand rejected as obvious over <u>Montiero</u> and <u>Moskowitz</u>.

(7)   *Grouping of Claims*

The rejection of claims 7-16 stand or fall together because appellant's brief does

not include a statement that this grouping of claims does not stand or fall together and

reasons in support thereof. See 37 CFR 1.192(c)(7).

(8)   *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9)   *Prior Art of Record*

5,838,906	DOYLE et al	11-1998
5,822,432	MOSKOWITZ et al	10-1998
5,778,187	MONTEIRO et al	7-1998

(10)   *Grounds of Rejection*

The following ground(s) of rejection are now applicable to the appealed claims:

It is noted that previous 103 rejection of claims 13 and 14 over <u>Doyle</u> and

<u>Moskowitz</u> has been withdrawn and a new ground of rejection of claims 15 and 16 over

<u>Monteiro</u> and <u>Moskowitz</u>, has been applied below.

A.   Claims 13-14 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by
Moskowitz et al, U.S. pat. No. 5,822,432.

Moskowitz discloses a system utilizing watermark data for initiating delivery of
media contents (e.g. audio, video) over a network medium comprising:

a program on a client computer for sending watermark data (e.g., service
agreement, URLs) to a remote computer for initiating data delivery or content
downloading from the remote computer to the client via a network (see col 9, lines 17-
40).

B.   Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over
Doyle et al, U.S. pat. No. 5,838,906, in view of Moskowitz.

Per claims 7 and 10, Doyle discloses a system for embedding a tag within a html
document wherein the tag is indicative of a file context or format or a program identifier,
i.e., identifying a program for use to open or operate upon the document at the remote
system (see Doyle in col 12, line 54 – col 13, line 31).

Doyle does not teach using watermark data in the contents. The use of
watermark data in a file for enabling transfer of copyrighted document is well known in
the art as disclosed by Moskowitz. Such prior art system comprises at least a
watermark detector and a watermark related program for initiating and controlling
delivery of content files (see Moskowitz's col 8, lines 54 - col 9, line 40).

It would have been obvious to one of ordinary skill in the art at the time the
invention was made to utilize Moskowitz's teaching in Doyle with because it would have

enabled distributing copyrighted contents to a plurality of users in the network more

effectively (see Moskowitz in col 2, lines 56 – col 3, line 3).

Per claims 8 and 11, Moskowitz teaches transmitting to client/receiver addresses

(URL addresses) of the senders or other content distributors (see Moskowitz in col 9,

lines 37-40).

Per claims 9 and 12, Doyle teaches a router or program launcher for directing

document data retrieved from the received packet to one of the data handlers for

processing the data (see Doyle in col 14, lines 64-67 and fig. 8A).

C.   Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Monteiro et al, U.S. pat. No. 5,778,187, in view of Moskowitz.

Monteiro discloses a system for delivering multimedia contents including

advertisements and update software to users (see Monteiro in col 7, lines 60-65 and col

11, lines 46-67).

Monteiro does not teach using watermark data in the contents. The use of

watermark data in a file for enabling transfer of copyrighted document is well known in

the art as disclosed by Moskowitz. Such prior art system comprises at least a

watermark detector and a watermark related program for initiating and controlling

delivery of content files (see Moskowitz's col 8, lines 54 - col 9, line 40).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to utilize Moskowitz's teaching in Monteiro with because it would

have enabled distributing copyrighted contents to a plurality of users in the network more effectively (see Moskowitz in col 2, lines 56 – col 3, line 3).

(11)   Response to Argument

Per 102 rejection of claim 13, appellant alleges that Moskowitz does not teach using watermark data as a trigger to initiate delivery of audio and video data because Moskowitz only teaches conveying watermarks with the delivery contents.

The examiner disagrees. First, the examiner is unable to find the alleged limitation using watermark data as "a trigger" to initiate delivery of audio and video data in claim 13. Rather, it can be seen from the scope of claim 13 that watermark data can be used by the system in any conventional process to initiate the delivery of audio and video data. Additionally, Moskowitz's teaching of watermark data is not limited to sending watermark data with the contents as appellant alleged. The citation of Moskowitz clearly teaches using watermark data to convey contract agreement between two parties such that actual content (video and audio data) delivery can be initiated only after the contract can be agreed upon by both parties (see Moskowitz in col 9, lines 19-26). For instance, a positive acknowledgement in watermark data sent from the receiver/client would allow the sender/server to initiate data content delivery. Conversely, a negative response will result in aborting the transaction. In shorts, this citation of Moskowitz discloses the use of watermark data exchanged between two parties to initiate delivery of data content. Thus, it is submitted that this teaching of Moskowitz meets the claim limitation.

Per 102 rejection of claim 14, appellant alleges that <u>Moskowitz</u> does not teach

that the watermark data is sent from a software program on the remote computer.

This is not found persuasive. As discussed above, <u>Moskowitz</u>'s teaching provides

a condition where data content will be delivered to the remote client only after the

contract can be verified by the remote client, e.g., receiving watermark data having

contract agreement from the remote client (<u>see Moskowitz in col 9, lines 19-26</u>).

Furthermore, <u>Moskowitz</u>'s teaching is clearly directed to use of software program to

transmit and process watermark data (<u>see Moskowitz in col 8, lines 66-67</u>).

Per 103 rejection of claim 7, appellant alleges that <u>Doyle</u> does not teach a

software program that transmits an identifier of itself.

The examiner is unable to find the alleged limitation in claim 7 because first

Claim 7 does not specify that the software program transmits the packet of data. For

example, a claim that states "A computer system including a mouse and an image

viewer program, operable to transmit a packet to a remote computer, said packet

comprising name of the viewer program and picture of the mouse" does not warrant that

the computer system consists only the mouse and the viewer program. Nor is it

construed to have either the mouse or the viewer program to transmit the packet.

Rather the mentioned computer system could have a web browser that is not claimed to

transmit the packet.

Even if assuming that in claim 7 the software program transmits the packet of data as alleged by appellant, it is submitted that <u>Doyle</u>'s teaching still meets the claim limitation because a conventional web browser (utilized at both sender and receiver) has a dual capability of transmitting/receiving data packets as well as opening/viewing documents, e.g. html documents (<u>see Doyle in col 2, line 28 – col 3, line 50</u>).

Claim 7 also does not require the use of specific identifier to uniquely identify a program as appellant alleged, i.e., an identifier of the program itself. With respect to use of general identifier to identify a program, i.e., program name, it is submitted that Doyle's teaching clearly meets the claim limitation (<u>see Doyle in col 13, lines 1-31</u>). Furthermore, <u>Doyle</u> requires the clients/receivers to have the identified program running on their computers for opening the data objects embedded in the received documents (<u>see Doyle in col 9, lines 24-40</u>).

Appellant further alleges that the combination of <u>Doyle</u> and <u>Moskowitz</u> are not obvious.

The examiner disagrees. Since Claim 7 is directed to generic use of watermark data and generic use of program identifier, it would have been simply obvious to one skilled in the art to recognize such combination when their uses are complimented each other. The combined teaching in this case does not require one teaching to be a solution to other's problem as appellant alleged. In the instant case, it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize <u>Moskowitz</u>'s watermark data in <u>Doyle</u> with because it would have enabled distributing

copyrighted contents to a plurality of users in the network (see Moskowitz in col 2, lines
34-55).

Per 103 rejection of claim 8, appellant alleges that neither Moskowitz nor Doyle

teach that the packet having address identifying the receiver because Moskowitz only

teaches providing address of the data content.

The examiner disagrees. First, it should be noted that the address of data

content usually comprises address of the content provider or sender because data

contents do not exist on their own. Moreover, Moskowitz clearly teaches transmitting to

client/receiver addresses (URL addresses) of the senders or other content distributors

(see Moskowitz in col 9, lines 37-40).

Per 103 rejection of claim 9, appellant alleges that Doyle does not disclose a

router and plural handlers.

The examiner disagrees. Doyle discloses a program router/launcher (HTML

widget) including a plurality of handlers (e.g., application 290, video player 292, fig. 8A)

for handling different types of data objects containing in the html documents (see Doyle

in col 14, lines 64-67). It appears that appellant failed to consider this citation of Doyle

as set out in the office action.

Per 103 rejection of claim 10, appellant alleges that Doyle does not disclose a

context or environment identifier.

The examiner disagrees. With respect to <u>Doyle</u>'s teaching, a program tag/name

is a computer environment identifier by any conventional definition. Moreover, a data

object tag in Doyle is also seen as a context identifier because it is used to identify

types of data which specifies actions to be performed on the content of the data object

(<u>see Doyle in col 13, lines 1-31</u>).

Appellant again alleges that the combination of <u>Doyle</u> and <u>Moskowitz</u> are not

obvious.

The examiner disagrees. Since Claim 10 is directed to generic use of watermark

data and generic use of content or environment identifier, it would have been simply

obvious to one skilled in the art to recognize such combination when their uses are

complimented each other. The combined teaching in this case does not require one

teaching to be a solution to other's problem as appellant alleged. In the instant case, it

would have been obvious to one of ordinary skill in the art at the time the invention was

made to utilize <u>Moskowitz</u>'s watermark data in <u>Doyle</u> with because it would have

enabled distributing copyrighted contents to a plurality of users in the network (<u>see</u>

<u>Moskowitz in col 2, lines 34-55</u>).

Per 103 rejection of claims 11-12, appellant's arguments are not found

persuasive for the same reasons applied to claims 8-9 set forth above.

Per 103 rejection of claims 15 and 16, appellant alleges that neither <u>Moskowitz</u>

nor <u>Doyle</u> teach delivering advertisement or update software.

Moskowitz teaches delivering digital media contents to users/consumers

including music, movies, video games, as well as Internet, broadcast contents and other

conventional media contents (see Moskowitz in col 1, lines 6-10; col 4, lines 48-56; col

10, lines 15-24). The examiner maintains that many such media contents typically

include advertisements (e.g., movies, broadcast contents) and update software (e.g.,

games). Despite of the notorious well known use of such media contents

(advertisements and update software) in the art, the examiner has now submitted a new

art, Monteiro, to show a prior art system for delivering advertisements and update

software to users set forth above (see Monteiro in col 7, lines 60-65 and col 11, lines

46-67).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
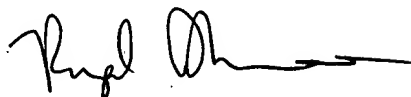
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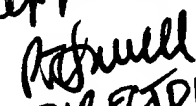July 25, 2005

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